# Certificate of Need Task Force

**July 14, 2005**

# Recap of June 23, 2005 Task Force Meeting

| Issue | Task Force Recommendation |
|---|---|
| Hospice Services | Deferred |
| Closure of Health Care Facilities | •Eliminate exemption/CON requirement for closures<br>•Eliminate public hearing requirement<br>•Maintain notice requirement |
| Clinical Information Technology | Eliminate requirement for CON |
| Specialized Health Care Services<br>  –Burn Care Units<br>  –Open Heart Surgery<br>  –Organ Transplant Surgery<br>  –NICU | •Eliminate requirement for CON<br>•Maintain requirement for CON<br>•Maintain requirement for CON<br>•Maintain requirement for CON |

# Certificate of Need Task Force:
# Working Paper for Discussion Format

- **Statement of the Issue**
- **Summary of Public Comments**
- **Background**
- **Current CON Review Standards Under State Health Plan (If applicable)**
- **Summary of Positions in Support of Alternative Regulatory Strategies**

# Summary of Recommended Guiding Principles

The stakeholders and others interested in examining and improving the Maryland Certificate of Need program have articulated the following principles that they believe should guide its application and operation:

## Coverage Issues

1. Maryland's Certificate of Need program should: respond to its residents' need for specific categories of health care services, promote improved access to these services by underserved populations, improve the quality and safety of these services, and help promote the affordability of health care available to Maryland residents.
2. Certificate of Need should be applied in situations where unrestricted competition is likely to result in higher or unnecessary costs to the system, in decreased access to care by vulnerable or less populous regions of the state, or in a diminution of the quality or safety of patient care.
3. Certificate of Need should apply equitably and objectively across the categories of providers covered by the program in Maryland.

## Process and Procedural Issues

4. The Certificate of Need program should be: procedurally clear, consistent, and timely; flexible enough to accommodate unique situations, whether of provider mission, geography and demographics, or technological advances; and specific to Maryland's unique policy and regulatory framework.
5. The planning standards, review criteria, and associated data used to conduct Certificate of Need reviews should be kept current, and regularly updated.

# Obstetric Services: Summary of Positions in Support of Alternative Regulatory Strategies

| | Deregulate from CON Review | Maintain Existing CON Review |
|---|---|---|
| **Need** | ●The addition of OB capacity will not, in and of itself, drive an increase in the number of births. There is no danger of unnecessary utilization of OB services.<br>●OB is as basic a service as general emergency care. A community hospital established to meet community needs should, at a minimum, be able to provide for such a basic service.<br>●Free-standing birthing centers are not subject to CON review.<br>●The addition of OB programs will expand choice of providers. | ●Statewide, the number of births to Maryland residents is projected to remain stable through this decade, rise gradually through 2020, and then decline.<br>●With relatively stable births projected over the next five years and only small increases over the next decade, any new provider will reduce volumes at existing programs. The CON program provides a public process for evaluating the differences between community needs and negative impacts on the health care system. |
| **Access** | ●Removal of the requirement for CON review would potentially increase access to OB services by eliminating a barrier to the development of new programs.<br>●SHP standard for geographic access (30-minute one-way driving time for 90% of the population) does not consider individuals who rely on public transportation.<br>●For individuals with limited access to care, the local hospital serves as a primary health care resource. Women who present at hospital emergency rooms in labor or with obstetrical related problems generally do not have adequate prenatal care. Additional OB resources would add such access.<br>●EMS diverts OB patients to other hospitals who would ordinarily come to the closest hospital. If there is no opportunity to transfer the woman to an OB facility, the delivery is done in the hospital ED or operating room. If the woman can be transferred, the hospital must stabilize the patient and then have her transferred by ambulance to another provider. | ●OB Chapter of the SHP permits any hospital to submit an application to establish OB services; 33 of 47 hospitals have OB programs; of the 14 hospitals without OB programs only one has applied for CON approval to establish a new program<br>●Analysis of travel time data shows that 98.5% of women between 15-44 yrs. are within 30 minutes of an acute inpatient obstetric service. Even if all 47 acute care hospitals offered OB, there would only be a marginal improvement in geographic access – from 98.5 to 99.5% of the child-bearing population would be within 30 minutes of an OB service.<br>●Of the four basic clinical services offered by acute care hospitals, only general medical-surgical services are available at all 47 hospitals. Like OB services, pediatrics and psychiatry are not offered by every hospital. Of the 47 hospitals, 33 offer pediatric services and 30 offer psychiatry services. |

# Obstetric Services: Summary of Positions in Support of Alternative Regulatory Strategies (continued)

|  | Deregulate from CON Review | Maintain Existing CON Review |
|---|---|---|
| **Cost** | ●The addition of OB programs would stimulate competition and could promote cost efficiencies.<br>●HSCRC effectively controls charges associated with any new OB providers.<br>●For women who walk into the hospital's ED in labor or with OB complications, the hospital must transfer her by ambulance to another provider. This utilization of critical EMS resources is unnecessary and a diversion from other community needs. | ●Provides a tool for ensuring that new programs can achieve recommended minimum volume levels for cost effectiveness.<br>●Duplicating programs that require professional staff in short supply on a 24/7 basis will add unnecessary costs to the system.<br>●Loss of volumes at existing programs will potentially lower revenues without reducing associated expenses. |
| **Quality** | ●OB is a basic health care service that should be provided by any community hospital that can offer a service that meets the quality standards established by recognized authorities, including the Maryland Perinatal System Standards. | ●SHP provides a mechanism for ensuring compliance with the Maryland Perinatal System Standards for new providers and hospitals seeking to expand or renovate OB services. |

# Home Health Agency Services: Summary of Positions in Support of Alternative Regulatory Strategies

|  | Deregulate from CON Review | Maintain Existing CON Review |
|---|---|---|
| **Need** | ●CON requirement for HHAs does not regulate full spectrum of home health delivery; RSAs, NSAs and NRSAs provide subsets of home care services not regulated by CON<br>● HHAs can expand capacity on an unregulated basis by adding staff. This largely eliminates potential for determining that new agencies are needed, biasing the regulatory process in favor of existing HHA.<br>●Limited scope of HHA CON regulation skews analysis of population use of HHA services. Volume of care provided by non-HHA entities is unknown. | ● Some states have seen unregulated market entry (except for licensure and Medicare certification) leading to proliferation of agencies and destabilization of service delivery for some period of time; longer-term shake out may result in consolidation of industry into fewer, larger agencies. |
| **Access** | ●Enforcement of authorized service areas for HHAs is difficult due to home-based nature of service delivery and reliance on self-reporting of data used in monitoring. | ● No indication that Marylanders lack access to HHA level of care; all jurisdictions served by at least one general HHA. |
| **Cost** | ●Charges for HHA services largely set by Medicare PPS, and their use constrained by other Medicare-mandated requirements, monitored by OASIS data reporting system.<br>●Limited scope of HHA CON limits control of cost; no impact on use of non-regulated HHA services. | ● Presence of more Medicare-certified HHAs might induce more referrals, and higher utilization, and consequently higher costs, than if number of agencies remains limited, and tied to projected need.<br>●Adding more agencies would increase competition for scarce staffing resources and unnecessary costs to the system |
| **Quality** | ●Principal indicators of quality of care (including initial and subsequent surveys by OHCQ, complaint investigation, accreditation, staff background checks, medical records review) are all required by Medicare as Conditions of Participation. OHCQ establishes compliance with these indicators as a condition of approving an agency's Medicare certification, and enforces compliance on a continuing basis. | ●CON review provides an initial, threshold review to determine whether a prospective HHA has financial resources, clinical sophistication, and information systems capability to obtain Medicare certification once licensed, thereby preventing marginal providers from entering market. |

# Meeting Schedule
# Certificate of Need Program Task Force
# July-September 2005

**The CON Task Force will meet at the following times:**

- **Thursday, July 28, 2005
1:00 p.m.**
- **Thursday, August 11, 2005
1:00 p.m.**
- **Thursday, August 25, 2005
1:00 p.m.**
- **Thursday, September 8, 2005
1:00 p.m.**

All meetings of the CON Task Force are open to the public and will be held in Conference Room 100 at the Maryland Health Care Commission (4160 Patterson Avenue, Baltimore, Maryland).

Additional information about meetings of the Certificate of Need Task Force may be obtained from the Commission's website: www.mhcc.state.md.us

# CON Task Force Meetings: Major Agenda Items

**Meeting 1:   May 26, 2005**

- Introduction of Members
- Background on Maryland CON Program
- Charge to the Task Force

**Meeting 2:   June 7, 2005**

- Public Forum on the Certificate of Need Program

**Meeting 3:   June 23, 2005**

- Specialized Health Care Services
- Hospice Services
- Health Information Technology
- Closure of Health Care Facilities

**Meeting 4:   July 14, 2005**
- Principles to Guide CON Program
- Home Health Services
- Obstetric Services

**Meeting 5:   July 28, 2005**

- Hospice Services
- Relocation of Hospital Beds/Services with PSA
- CON Review Process Issues

**Meeting 6:   August 11, 2005**
- Capital Expenditure Review Threshold
- Ambulatory Surgery Services
- State Health Plan Issues
- CON Review Process Issues

**Meeting 7:   August 25, 2005**
- State Health Plan Issues
- Monitoring Issues
- Remaining Issues
- Review Draft of Final Task Force Report

**Meeting 8:   September 8, 2005**
- Review Draft of Final Task Force Report